



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

OCT 09 2012

REPLY TO THE ATTENTION OF:

SE-5J

VIA ELECTRONIC MAIL AND U.S. MAIL

Mr. Stephen Fleming
Safety-Kleen Systems, Inc.
11923 Tramway Drive
Cincinnati, Ohio 45241

RE: Completion of On-Site Work under Order No. V-W-11-C-967 for the ESI Environmental Inc. Site, Indianapolis, Marion County, Indiana

Dear Mr. Fleming:

On April 7, 2011, the U.S. EPA executed an Administrative Settlement Agreement on Consent (ASAOC) Docket No. V-W-11-C-967, with the Performing Party Respondents requiring them to perform a time-critical removal at the site. This ASAOC mitigated actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants, or contaminants, actual or potential contamination of drinking water supplies or sensitive ecosystems, weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released, and the unavailability of other appropriate federal or state response mechanisms to respond to ESI declaring bankruptcy. The ASAOC provided the following:

VIII. WORK TO BE PERFORMED

16. The Performing Party Respondents shall perform, at a minimum, the following activities during the removal action:

- a. Develop and implement a site-specific Health and Safety Plan, Site Security Plan, and Emergency Contingency Plan;
- b. Secure the Site, as needed, to prevent unauthorized access to hazardous substances and oil in tanks and other containers;
- c. Upon the effective date of this Settlement Agreement and during the removal action, manage stormwater resulting from precipitation (i.e. rain and melting snow) that occurs during the removal action to prevent the release of contaminated stormwater from the Site.

- d. Characterize the contents of tanks, bunkered tanks, frac tanks, containers, pipes, process lines, pits, solidification pits, dissolved air floatations, American Petroleum Institute oil-water separators, roll-off boxes, trenches, and on-site stormwater systems for treatment and/or off-site disposal;
- e. Clean all-residues from the on-site stormwater system for proper treatment and/or off-site disposal.
- f. Consolidate and package all properly characterized or identified hazardous substances, pollutants, wastes, and contaminants for transport and off-site disposal at a Resource Conservation and Recovery Act/CERCLA-approved disposal facility, in accordance with EPA's Off-Site Rule, 40 C.F.R. § 300.440.
- g. Perform post-removal confirmatory sampling for the action items listed above;
- h. Direct stormwater to a receiving water by capping storm sewers and removing berms as needed to ensure that any remaining contaminants no longer pose a threat to public health, welfare or the environment.

The EPA has determined that the Performing Party Respondents have performed and completed all work required in paragraph 16 of the ASAO as of July 23, 2012.

XI. RECORD RETENTION

30. Until 6 years after Respondents' receipt of the EPA's notification pursuant to Section XXVI (Notice of Completion Work), each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 6 years after Respondents' receipt of EPA's notification pursuant to Section XXVI (Notice of Completion of Work), the Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature, or description relating to performance of the Work.

31. At the conclusion of this document retention period, the Respondents shall notify EPA at least 60 days prior to the destruction of any such records or documents, and, upon request by EPA, the Respondents will deliver any such records or documents to EPA. The Respondents may assert that certain documents, records, and other information are privileged under the

attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by the Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

32. Each Respondent hereby certified individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discard, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied and will fully comply with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. PAYMENT OF RESPONSE COSTS

The ESI PRP Group (performing and non-performing parties) paid \$627,662.69 of U.S. EPA's past costs. On July 31, 2012, the ESI PRPs wired to the EPA \$1,063,248.83 to pay the first oversight bill.

This notice of completion in no way releases the Respondents from any potential future obligations to perform additional work to address the same or other conditions at the Site. Similarly this notice of completion does not release Respondents from any recordkeeping, payment, penalties for any violation of the ASAOC, or other obligations that extend beyond the date of this notice. Oversight cost accrued, but not yet billed, are still a continuing obligation of the Respondents under the ASAOC.

Please contact me at (312) 886-3601 or Nola Hicks, Office of Regional Counsel, at (312) 886-7949, if you have any questions or comments regarding this letter.

Sincerely,

 For VSE

Vernetta Simon, P.E.
On-Scene Coordinator

cc: Debbie Keating (SE-5J)
Nola Hicks (C-14J)